

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION

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JAMES I. BURLISON, RODNEY L.
WAITS, and BUFORD O'NEAL
TANKERSLEY,

Plaintiffs,

v.

UNITED STATES OF AMERICA,

Defendant.

No. 04-2597 M1/P

ORDER DENYING WITHOUT PREJUDICE PLAINTIFFS' MOTION FOR SUMMARY JUDGMENT

Before the Court is Plaintiffs' Motion for Summary Judgment, filed November 26, 2004. Defendant filed an opposition on January 27, 2005. Plaintiffs filed a reply on March 29, 2005. For the following reasons, Plaintiffs' motion is DENIED.

Plaintiff brings this action pursuant to 28 U.S.C. § 2409 to quiet title to an asserted easement over part of the Lower Hatchie National Wildlife Refuge located in Lauderdale County, Tennessee, to and from property held by Plaintiffs.¹ Plaintiffs move for summary judgment with respect to their claim of the

¹ Section 2409 provides that "[t]he United States may be named as a party defendant in a civil action under this section to adjudicate a disputed title to real property in which the United States claims an interest, other than a security interest or water rights." 28 U.S.C. § 2409.

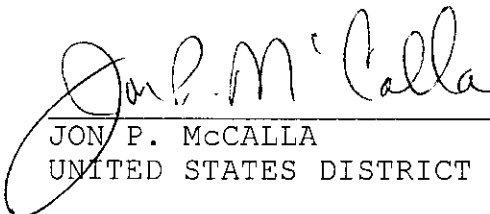
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existence of a permanent easement of ingress over the Lower Hatchie National Wildlife Refuge.

Plaintiffs filed their motion prior to the Court's issuance of an initial scheduling order, which set the deadline for the filing of dispositive motions as July 16, 2005. (See Scheduling Order, December 16, 2004 (Docket No. 22).) At that time, no discovery had been conducted regarding Plaintiffs' claim. Plaintiffs' motion was therefore premature. Accordingly, Plaintiffs' motion is DENIED, without prejudice. Plaintiffs may renew their motion, accompanied by any additional relevant materials, by filing a notice of renewal prior to the July 16, 2005, dispositive motion deadline.

So ORDERED this 13th day of June, 2005.



JON P. McCALLA
UNITED STATES DISTRICT JUDGE



Notice of Distribution

This notice confirms a copy of the document docketed as number 41 in case 2:04-CV-02597 was distributed by fax, mail, or direct printing on June 15, 2005 to the parties listed.

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Honorable Jon McCalla
US DISTRICT COURT